

(Preliminary Engineering Agreement Form with City on Urban Projects)

AGREEMENT

THIS AGREEMENT, made this 16 day of February, 1977,
pursuant to A.R.S. §§ 11-951 through 11-954, by and between the
DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, STATE ENGINEER, an
agency of the State of Arizona, thereunto duly authorized, hereinafter
designated DEPARTMENT OF TRANSPORTATION, and the CITY OF MESA,
acting by and through its CITY COUNCIL, thereunto duly authorized, here-
inafter designated as CITY.

RECITALS:

WHEREAS, the CITY is empowered by A.R.S. § 9-672 to undertake
public improvements and is desirous of bringing to the construction
stage certain projects which have been selected by the DEPARTMENT OF
TRANSPORTATION and the CITY, subject to the approval of the Federal
Highway Administration as by law required, and to that end requests
the DEPARTMENT OF TRANSPORTATION to perform certain work and prepare
documents required by the Federal Highway Administration to qualify
the said projects for and to receive Federal Aid thereon, such work
consisting of but not specifically limited to the development and
preparation of environmental impact statements, development, prepara-
tion and/or review of designs, plans, maps, etc., aerial and ground
surveys, geologic materials testing and analysis, traffic engineering
studies, and such other related tasks essential to the achievement of
the aforementioned objective, and

WHEREAS, the purpose to be accomplished by this Agreement is
the performance of said work, and

WHEREAS, the estimated cost of said work is \$ 5,000.00, annually, which sum the CITY is willing to transmit to and deposit with the DEPARTMENT OF TRANSPORTATION for the purpose of defraying the cost of the work described herein, and

WHEREAS, the DEPARTMENT OF TRANSPORTATION is empowered by A.R.S. § 28-108 to perform the work herein embraced, is well equipped and willing to do so.

ARTICLE I

IN CONSIDERATION of the covenants of the CITY herein contained and the faithful performance thereof, the DEPARTMENT OF TRANSPORTATION agrees:

1. That subsequent to the initial deposit by the CITY of the sum of \$ 5,000.00, it will begin performance of certain work and prepare the documents required by the Federal Highway Administration necessary to bring the projects to the construction stage.
2. That it will furnish all labor, materials and equipment necessary to complete the work it herein agrees to do.
3. That it will provide to the CITY, a bi-monthly statement of account identifying the projects for which the work has been performed, the type and amount of expenditures, and the account balance.

ARTICLE II

In CONSIDERATION of the covenants of the DEPARTMENT OF TRANSPORTATION herein contained and the faithful performance thereof, the CITY agrees:

1. That it will deposit with the DEPARTMENT OF TRANSPORTATION the sum of \$ 5,000.00, all or any part of which shall be used by the DEPARTMENT OF TRANSPORTATION to defray the cost of the work herein embraced.
2. That the cost of the work herein embraced shall be borne wholly by

the CITY without State or Federal financial Aid.

3. That it will deposit with the DEPARTMENT OF TRANSPORTATION, additional funds as may be required to complete the work as herein embraced. Such deposits will be made upon request of the DEPARTMENT OF TRANSPORTATION based upon a low or depleted account balance as described in ARTICLE I, paragraph 3 of this Agreement.

ARTICLE III

IN CONSIDERATION of the promises, it is mutually agreed:

1. That any part of the sum of \$ 5,000.00 , deposited by the CITY remaining after the cost of the work, as finally fixed and determined by the DEPARTMENT OF TRANSPORTATION, has been paid, shall be returned forthwith to the CITY upon written request.
2. That the DEPARTMENT OF TRANSPORTATION and the STATE OF ARIZONA assume no financial obligation or liability hereunder and that any damage arising from the carrying out in any respect of the work embraced in this Agreement or any modification thereof, shall be solely the liability of the CITY ; that the CITY agrees to save and hold harmless the STATE, any of its departments, agencies, officers or employees from all cost and damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition or event arising out of the performance or nonperformance of any provision of this Agreement by the CITY, any of its agents or any of its independent contractors. The above cost incurred by the STATE, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and reasonable attorneys' fees. When any above cost, damage or other damage occurs as aforesaid, the CITY assumes the burden of proof that the above activity, condition or event did not

cause such cost, damage or other damage;

3. That the cost of the work covered by this Agreement shall be borne by the CITY , but should some unforeseen condition or circumstance increase the cost of the work to be performed by the DEPARTMENT OF TRANSPORTATION in excess of the amount shown in the recital, the DEPARTMENT OF TRANSPORTATION shall not be obligated to incur any expenditure in excess of the CITY'S deposit specified in Article II, paragraph 1, unless or until so authorized in writing by the CITY.

4. That this agreement shall remain in force until the work herein embraced has been completed in accordance with the terms of the agreement or, until earlier terminated by either the CITY or the DEPARTMENT OF TRANSPORTATION upon thirty days written notice of that intent.

5. That this contractual agreement shall be filed with the Secretary of State and shall not become effective until at least ten days after the date of such filing.

6. Authenticated copies of the resolutions of the DEPARTMENT OF TRANSPORTATION and the CITY authorizing both entities to enter into such an agreement are attached.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

ARIZONA DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION

By: 

CITY OF Mesa

By: CITY COUNCIL

By: 

Title: Manager

ATTEST:

R E S O L U T I O N

Be it resolved on this date, JAN 31 1977, I,
WILLIAM A. ORDWAY, the below undersigned Director, Arizona Department of
Transportation, have determined that it is to be to the advantage of the
State of Arizona that the Department of Transportation, acting by and
through the Highways Division, and the CITY of MESA,
acting by and through its City Council,
enter into the intergovernmental agency agreement for the purpose of
bringing to the construction state certain projects which have been
selected by the Department of Transportation and the City, subject to the
approval of the Federal Highway Administration as by law required.

William A. Ordway
WILLIAM A. ORDWAY, Director
Department of Transportation

RESOLUTION NO. 4134

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MESA, MARICOPA COUNTY, ARIZONA,
AUTHORIZING THE EXECUTION OF A CERTAIN
AGREEMENT WITH THE DEPARTMENT OF TRANS-
PORTATION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the Manager and City Clerk are
authorized and directed on behalf of the City of Mesa to
execute a certain Agreement with the Department of Trans-
portation, Highways Division, State Engineer, for certain
preliminary engineering work, a true and correct copy of
such agreement being marked Exhibit "A", attached hereto
and made a part hereof by reference.

PASSED AND ADOPTED by the Mayor and City Council
of the City of Mesa, Maricopa County, Arizona, this 24th
day of January, 1977.

APPROVED:

Samuel Pomeroy
Mayor

ATTEST:

Lois L. Lano
City Clerk





*Certificate
of
City Clerk*

I, DORTHE M. DANA, THE DULY APPOINTED AND
QUALIFIED CITY CLERK OF THE CITY OF MESA, MARICOPA COUNTY,
ARIZONA, DO HEREBY CERTIFY THAT THE ATTACHED COPY OF
RESOLUTION NO. 4134, ENTITLED:

RESOLUTION NO. 4134

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MESA, MARICOPA COUNTY, ARIZONA,
AUTHORIZING THE EXECUTION OF A CERTAIN
AGREEMENT WITH THE DEPARTMENT OF TRANS-
PORTATION

IS A TRUE, CORRECT AND COMPARED COPY OF THE ORIGINAL OF
RECORD, AND ON FILE IN THE OFFICE OF THE CITY CLERK OF THE
CITY OF MESA, ARIZONA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND
AND SEAL OF THE CITY OF MESA, MARICOPA COUNTY, STATE OF
ARIZONA, THIS 26th DAY OF January, 1977.


Dorthe Dana
DORTHE M. DANA, CITY CLERK

ATTORNEY GENERAL
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. 77-58 which is an agreement between public agencies has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

DATED this 7th day of February, 19 77.

BRUCE E. BABBITT
The Attorney General


ALBERT MORGAN
Assistant Attorney General